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09/855,701	05/16/2001	Morihito Nomura	000400-837	9249

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EXAMINER

HO, THOMAS Y

ART UNIT

PAPER NUMBER

3677

DATE MAILED: 09/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/855,701

Applicant(s)

NOMURA ET AL.

Examiner

Thomas Y Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-14 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8, 15-17 is/are rejected.
- 7) ☒ Claim(s) 4-5, 7, 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The indicated allowability of claims 2-3 and 15-17 is withdrawn in view of the newly applied reference(s) to Sano USPN6167779 and case law. Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 8, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sano USPN6167779 in view of cited case law.

As to claim 1, Sano discloses: a vehicle door handle device comprising: a frame 1 secured to an inside of an outer panel 20 of a vehicle door and having a supporting portion and insertion holes; a link 2c/21 rotatably mounted to the frame 1 and urged by an urging force of an elastic member 3 in one rotational direction; a grip-type outer handle 2d mounted from outside the outer panel 20 and operatively associated with the link 2c/21 to operate the link 2c/21 so as to rotate against the urging force of the elastic member 3; the frame being provided with axle portions 6 each having a two faced portion; the link 2c/21 being provided with a first engaging portion 9 and axle portions 7 being provided with slots 8 for inserting each of the two faced portions; the link 2c/21 being provided with supporting holes 7 for rotatably supporting the axle

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portions 6; and the frame 1 being provided with a second engaging portion 1a/10 (see Figures 1 and 7) which engages the first engaging portion 9 for holding the link 2c/21 in a preliminary holding position (the preliminary holding position can be any of the shown positions in the drawings). The difference between the claims and Sano is the claims recite the opposite relationship between the axle portions and slots; specifically, Sano discloses that the axle portions 6 are on the frame and the slots 8 are on the link 2c/21, while the claims recite that the axle portions are on the LINK and the slots are on the FRAME. This constitutes a reversal of components. The reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950). It would have been obvious to one of ordinary skill in the art, having the disclosures of Sano and case law before him at the time the invention was made to modify Sano to have the reversed relationship between the axle portions and slots, because such a modification is a design consideration within the skill of the art.

As to claim 2, Sano discloses the axle portions 7 and the first engaging portions 9 are integrally formed on the link 2c/21 so that the link 2c/21, the slots 8 and the first engaging portion 9 are unitarily formed as one piece.

As to claim 3, Sano discloses the first engaging portion 9 deforms the second engaging portion 1a/10 (see Figures 1 and 7) when the link is rotated a predetermined amount against the urging force of the elastic member 3. Figure 7 shows that the first engaging portion 9 abuts portion 1a of the frame during an extent of rotation, and as clearly evidenced in the drawings,

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cannot rotate to the position of Figure 8 without deformation to a slight degree of the wall portion of 1a.

As to claim 6, Sano discloses the first engaging portion 9 deforms the second engaging portion 1a/10 (see Figures 7 and 8) when the link is rotated a predetermined amount against the urging force of the elastic member 3. Refer to the rejection of claim 3 above for a more detailed explanation.

As to claim 8, Sano discloses the link 2c/21 includes a mounting portion, the elastic member 3 being mounted on the mounting portion (see Figure 4).

As to claim 15, Sano discloses a vehicle door handle device comprising: a frame 1 secured to an inside of an outer panel 20 of a vehicle door, the frame 1 having a pair of first axle portions 6 and a pair of second axle portions (unnumbered; see Figure 1, where the pair of second axle portions are located ABOVE axle portions 6); a link 2c/21 rotatably mounted on the frame 1 by way of a first pair of supporting holes 7 and a second pair of supporting holes (unnumbered; see Figure 1, where the second pair of supporting holes are located on member 15), the first axle portions 6 and the second axle portions (unnumbered; see Figure 1, where the pair of second axle portions are located ABOVE axle portions 6) having different cross-sectional shapes, each of the first axle portions 6 being rotatably supported in one of the first supporting holes 7 and each of the second axle portions (unnumbered; see Figure 1, where the pair of second axle portions are located ABOVE axle portions 6) being rotatably supported in one of the second supporting holes (unnumbered; see Figure 1, where the second pair of supporting holes are located on member 15); a spring 3 connected to the link 2c/21 and applying a rotational urging force to the link 2c/21 in one rotational direction; an outer handle 2d mounted from outside the

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outer panel 20 of the vehicle, a portion of the outer handle 2d engaging a portion of the link 2c/21 to rotate the link against the urging force of the elastic member 3 upon operation of the outer handle 2d; and a portion 1a/10 of the frame 1 engaging a portion 9 of the link 2c/21 to hold the link 2c/21 in a preliminary holding position. Case law teaches the reversal of the slots and supporting holes. Refer to the rejection of claim 1 above for a more detailed explanation.

As to claim 16, Sano discloses the link 2c/21 includes a mounting portion on which is mounted the spring 3 (see Figures 3 and 4).

As to claim 17, Sano discloses each of the second axle portions (unnumbered; see Figure 1, where the pair of second axle portions are located ABOVE axle portions 6) is coaxial with one of the first axle portions 6.

***Allowable Subject Matter***

Claims 9-14 allowed.

Claims 4-5, 7, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: as to claims 4 and 7, applicant claims second axle portions integrally formed with the link so the link and the second axle portions are unitarily formed as one piece. The prior art of record fails to disclose all claimed limitations. The closest reference of Sano discloses second axle portions (unnumbered; see Figure 1, where the pair of second axle portions are located ABOVE axle portions 6) on a lock member 15. It could be interpreted that the member 15 is also part of the link 2c/21 in Sano, however, this interpretation would not read on the claim limitations reciting a

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unitary or one-piece construction. Though case law recites that one-piece construction and construction from separate parts is a design consideration within the skill of the art, modifying the lock member 15 to rotate unitarily with the link 2c/21 in Sano would destroy the function of Sano because a user would be actuating the lock every time he/she actuates the door handle, so these parts must be kept separate. As to claims 9 and 18, the closest reference of Sano discloses all limitations except for those directed towards the outer handle having an insertion portion passing through the outer panel into an insertion hole in the frame. Sano discloses a handle portion mounted to a link that is inserted into insertions holes in a frame, and the prior art of record offers no modification of Sano to read on the claims that would be obvious to one of ordinary skill in the art.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN4475754 to Arlauskas discloses a pull out door handle assembly.

USPN5005885 to Kobayashi discloses an apparatus for operating a car door by pivotal lever.

USPN6234548 to Mittelbach discloses a pull handle for a motor-vehicle door latch.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Y Ho whose telephone number is (703)305-4556. The examiner can normally be reached on M-F 10:00AM-6:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J Swann can be reached on (703)306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-1113.

TYH



J. J. SWANN  
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